

PS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MR. ACHILLE KIYANI,

Petitioner,

v.

25-CV-6180-MAV
ORDER

MR. JOSEPH FREDEN, in his official
capacity as Deputy Field Office
Director, Buffalo Field Office, U.S.
Immigration & Customs Enforcement,

Respondent.

Pro se Petitioner, Mr. Achille Kiyani, is a civil immigration detainee currently held at the Buffalo Federal Detention Facility. Petitioner claims that he is being detained in United States Immigration and Customs Enforcement custody pending removal proceedings in violation of the United States Constitution. Therefore, Petitioner seeks relief under 28 U.S.C. § 2241. Docket Item 1. Petitioner has paid the \$5.00 filing fee, and is represented by counsel.

Counsel for Petitioner and Respondent appeared before the Court on April 10, 2025. In a joint status report submitted prior to the appearance, Petitioner requested “evidence of the basis for detention authority”; “explication of the government’s detention authority”; “explication of whether and how 8 U.S.C. § 1225[b](B)’s statutory procedure for assessing a fear of return applies to” Petitioner; “explication of whether and how the executive order applies to” Petitioner. ECF No. 7 at 2–5. In response, Respondent has declined to provide evidence beyond the expedited order of

removal already provided; identified the grounds for Petitioner's detention as 8 U.S.C. § 1182(f) and 8 U.S.C. § 1225(b); noted that Presidential Proclamation 10888 restricted Petitioner's access to other provisions of the Immigration and Nationality Act; and reiterated its position that Presidential Proclamation 10888 extended beyond the southern border. *Id.*

After careful review of the parties' papers submitted to date, as well as the relevant authorities, including 28 U.S.C. § 2243, the Court denies Petitioner's requests as stated in the joint status report [ECF No. 7] without prejudice. Nevertheless, because this Court has not yet ordered a copy of the Petition to be served on the United States Attorney's Office, Western District of New York, the Court will count the 45 days that Respondent is provided to respond under the Court's standing order from the date the petition was filed.

ORDER

Accordingly, IT IS HEREBY ORDERED that Respondent shall file and serve an **answer** responding to the allegations in the Petition on or before May 19, 2025; and it is further

ORDERED that Respondent shall file and serve a **memorandum of law** addressing each of the issues raised in the Petition and including citations to supporting authority and applicable sections of the Immigration and Nationality Act on or before May 19, 2025; and it is further

ORDERED that instead of an answer, Respondent may file a **motion to dismiss** the Petition on or before May 19, 2025, accompanied by appropriate exhibits demonstrating that an answer to the Petition is unnecessary; and it is further


ORDERED that Petitioner shall have **25 days** after service of the answer or motion to dismiss to file a **written response**; and it is further

ORDERED that the Clerk of Court shall serve a copy of the Petition, together with a copy of this Order, electronically via a Notice of Electronic Filing to the United States Attorney's Office, Western District of New York at USANYW-Immigration-Habeas@usdoj.gov.

PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS AND CORRESPONDENCE TO THE ATTORNEY APPEARING FOR RESPONDENT.

SO ORDERED.

Dated: April 10, 2025
Rochester, New York


MEREDITH A. VACCA
UNITED STATES DISTRICT JUDGE